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INDIAN TERRITORY.

REMARKS

OF

WILLIAM P. ROSS,

Of the Cherokee Delegation,

Before the Committee on Territories

OF THE

UNITED STATES SENATE,

On the subjects referred to in the Resolutions of Mr. Voorhees,
as delivered in part January 17, 1879, and
submitted in full January 23, 1879.

WASHINGTON, D. C.

GIBSON BROTHERS, PRINTERS.

1879.

Appalachian Room
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IN THE SENATE OF THE UNITED STATES,
February 25, 1878.

On motion by Mr. VOORHEES,

Resolved by the Senate, That the Committee on Territories be, and the same is hereby, instructed to ascertain, at its earliest convenience, whether or not the railroad companies referred to by the acts of the Thirty-ninth Congress approved, respectively, July 25, 26, and 27, 1866, and entitled, respectively, "An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River," "An act granting lands to the State of Kansas to aid in the construction of a southern branch of the Union Pacific Railway and telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas," and "An act granting land to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast," have issued bonds of any kind, predicated upon the conditional land-grants of the lands of the Indians of the Indian territory claimed by said companies under said acts. If it be ascertained that such bonds have been issued, then it shall be the duty of said committee to ascertain in whose possession the bonds are, and for what purpose.

Resolved further, That said committee be instructed to ascertain what amount of money has been expended by the several Indian tribes of the Indian territory in support of delegates to Washington during the past five years, and in opposing the organization of a civil government over said territory; and whether any of such money has been taken from the school funds of any of such tribes; and, if so, what legislation is necessary to prevent, in future, the diversion of such school funds from their legitimate purpose.

Resolved further, That said committee be instructed to ascertain whether a civil form of government cannot be organized over the Indian territory, for the better protection of life and property, and whether the lands now held in common by said Indian tribes cannot be divided in severalty among the Indians without confirming the conditional grants of lands to certain railroad corporations.

Resolved further, That said committee, in the discharge of its duties aforesaid, be authorized to send for persons and papers, to employ a stenographer, and, when necessary, to compel the attendance of witnesses in its investigation, and to report the result of said investigation to this body during the present session of Congress.

Attest :

GEO. C. GORHAM,

Secretary.

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Mr. Chairman and Gentlemen of the Committee on Territories :

I appear on the part of the Cherokee Nation. The diffidence inspired by the magnitude of my case is relieved only by an appreciation of the courtesy which accords me the privilege of a hearing, and the conviction that "he is thrice armed whose cause is just." If the relations between the United States and the Cherokee Nation are anomalous, they are such as have sprung from their intercourse; been strengthened by the lapse of almost a hundred years, and consecrated by repeated pledges of allegiance on the one hand, and protection on the other. Reference to these relations will be had no further than may be deemed necessary for the proper presentation of the subjects embraced in the resolutions of the Senate. And as no correct conclusion can be reached in regard to them without a consideration of both the law and the facts in the premises, I shall state them concisely as possible, without special reference to the order in which they occur in the resolutions themselves. Then :

WHAT IS THE POLITICAL STATUS OF THE CHEROKEE NATION ?

Fortunately, the answer to this question is not left open to fine spun theories nor vague speculations. It is shown by the unbroken character of their intercourse with the whites from the discovery of the continent; defined by numerous treaties; enforced by appropriate legislation, and affirmed by the highest judicial tribunal known to the Constitution of the United States. About 1730 the King of Great Britain deemed the Cherokees of sufficient importance, in the contests going on between the rival powers of Europe for supremacy on this continent, to appoint a special commissioner to establish friendly relations with them in the person of Sir Alexander Cumming, who visited their towns on the Tennessee river, and returned, after accomplishing his mission, to England with a delegation of Cherokees, who were presented at court. After the treaty of peace in 1763 the Superintendent of Indian Affairs for Great Britain, in a speech delivered at Mobile, said to the Indians : " Whenever you shall be pleased to surrender any of your territories to His Majesty it must be done for the future at a public meeting of your nation, when the Governors of the provinces or the Superintendent shall be present and obtain the

consent of all your people. The boundaries of your hunting grounds will be accurately fixed, and no settlement permitted to be made upon them. As you may be assured that all treaties with your people will be faithfully kept, so it is expected that you also will be careful strictly to observe them." The national character of the Cherokees and their right of self-government thus early recognized, has been continued and is acknowledged at the present time. All of the treaties between the United States and the Cherokee Nation, from 1785 to 1868, were negotiated and concluded upon the recognition of those relations of the Cherokees ; and it is a historical fact that President Washington insisted that the treaty of 1785 should receive the ratification of the Senate, in like manner with treaties concluded with foreign powers. And I venture to affirm here that the only way in which the existing provisions of these treaties can be lawfully abrogated or changed will be by the exercise of the same power and formalities between the parties to them, the United States and the Cherokee Nation. Not only have treaties recognized the Cherokee Nation as a political community, possessing a national character, and the right of self-government in all respects not qualified by the provisions of their treaties, but so have the legislative, the executive, and the judicial departments of your Government. There is no adverse current in these respects. The stream of intercourse all flows in one direction. It is, however, not only a recognition of these two conditions ; but it is a pledge, reiterated again and again, that they shall remain so forever, without the Cherokee Nation shall consent to a change. Indeed, the Cherokees were forced from their homes east of the Mississippi River because it was the policy of the Government that they should remain so.

The Treaty of 1828 recites the "*anxious desire* of the Government of the United States to secure the Cherokee Nation of Indians a permanent home, and which shall, under the most solemn guarantees of the United States, be and remain theirs forever—a home that shall never in all future time be embarrassed by having extended around it the lines or placed over it the jurisdiction of a State or Territory, nor be pressed upon by the extension in any way of any of the limits of any existing Territory or State." The Treaty of 1833 annulled the 6th article of the Treaty of 1828, which provided, that when they desired it, the United States might

allot their lands and" give them a plain set of laws suited to their condition—a prophetic forecast to remove even the shadow of a pretext for the very measures now sought to be forced upon them. By the 4th article of the Treaty of 1835, the United States pledge themselves to "secure to the Cherokee Nation the right by their national councils to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country, belonging to their own people or such persons as have connected themselves with them," not inconsistent with the Constitution of the United States and the acts of Congress regulating trade and intercourse with Indians. The Treaty of 1846 continues these guarantees, as does that of 1866. The latter by its 31st article reaffirmed and declared to be in full force all provisions of treaties previously ratified and in force which were not inconsistent with that treaty.

Is there anything in the Treaty of 1866 inconsistent with the right of the Cherokee Nation to continue to exist in its national capacity and govern itself? Nothing, absolutely nothing! The provision of that treaty authorizing the establishment of a general council for the Indian Territory is itself an explicit reaffirmation of these great and invaluable rights. That I do not incorrectly construe this clause of the treaty, I will quote the whole of the 12th article, which is the only one relating to the general council:

ART. 12TH. [Treaty of 1866, pp. 90-91, Rev. Ind. Treaties.] The Cherokees agree that a general council, consisting of delegates elected by each nation or tribe lawfully residing within the Indian Territory, may be annually convened in said Territory, which council shall be organized in such manner and possess such powers as hereinafter prescribed.

First. After the ratification of this treaty, and as soon as may be deemed practicable by the Secretary of the Interior, and prior to the first session of said council, a census or enumeration of each tribe lawfully resident in said Territory shall be taken under the direction of the Commissioner of Indian Affairs, who for that purpose is hereby authorized to designate and appoint competent persons, whose compensation shall be fixed by the Secretary of the Interior, and paid by the United States.

Second. The first general council shall consist of one member from each tribe, and an additional member for each one thousand Indians, or each fraction of a thousand greater than five hundred, being members of any tribe lawfully resident in said Territory,

and shall be selected by said tribes respectively who may assent to the establishment of said general council; and if none should be thus formally selected by any nation or tribe so assenting, the said nation or tribe shall be represented in said general council by the chief or chiefs and head men of said tribes, to be taken in the order of their rank as recognized in tribal usage, in the same number and proportion as above indicated. After the said census shall have been taken and completed, the Superintendent of Indian Affairs shall publish and declare to each tribe assenting to the establishment of such council the number of members of such council to which they shall be entitled under the provisions of this article, and the persons entitled to represent said tribes shall meet at such time and place as he shall approve; but thereafter the time and place of the sessions of said council shall be determined by its action: *Provided*, That no session in any one year shall exceed the term of thirty days: *And provided*, That special sessions of said council may be called by the Secretary of the Interior whenever in his judgment the interests of said tribes shall require such special sessions.

Third. Said general council shall have power to legislate upon matters pertaining to the intercourse and relations of the Indian tribes and nations and colonies of freedmen resident in said Territory; the arrest and extradition of criminals and offenders escaping from one tribe to another, or into any community of freedmen; the administration of justice between members of different tribes of said Territory and persons other than Indians and members of said tribes or nations; and the common defence and safety of the nations of said Territory. All laws enacted by such council shall take effect at such time as may therein be provided, unless suspended by direction of the President of the United States. No law shall be enacted inconsistent with the Constitution of the United States, or laws of Congress, or existing treaty stipulations with the United States. Nor shall said council legislate upon matters other than those above indicated: *Provided, however*, That the legislative power of such general council may be enlarged by the consent of the national council of each nation or tribe assenting to its establishment, with the approval of the President of the United States.

Fourth. Said council shall be presided over by such person as may be designated by the Secretary of the Interior.

Fifth. The council shall elect a secretary, whose duty it shall be to keep an accurate record of all the proceedings of said council, and who shall transmit a true copy of all such proceedings, duly certified by the presiding officer of such council, to the Secretary of the Interior, and to each tribe or nation represented in said council, immediately after the sessions of said council shall ter-

minate. He shall be paid out of the Treasury of the United States an annual salary of five hundred dollars.

Sixth. The members of said council shall be paid by the United States the sum of four dollars per diem during the term actually in attendance on the sessions of said council, and at the rate of four dollars for every twenty miles necessarily travelled by them in going from and returning to their homes, respectively, from said council, to be certified by the secretary and president of the said council.

The form of government contemplated by the article just quoted was purely one of Indian representation. It partakes in no respect of the character of the governments established over New Mexico, Wyoming, or other Territories of the United States, by enactment of Congress. It confers, not even by the remotest implication, any authority upon Congress to create any form whatever of civil government over the Cherokee Nation. Nor can ingenuity extract from it the feeblest indication that it confers, or was designed to confer, upon Congress the exercise of such power. The same remarks may be applied to the proceedings of the General Council during the brief period of its existence. There was not an act performed nor a measure proposed which was not designed to retain the Indian Territory as a home for the Indians, to subject it to Indian rule so far as consistent with relations established by treaties with the United States, and to perpetuate the right of soil and self-government of the several nations and tribes therein domiciled. To the extent that the Cherokee Nation has yielded her assent to the establishment of the General Council, she will be found acting in good faith at all times. But in regard to that Council, as in regard to any other question, she is obligated only by the stipulations of her own treaties. She maintains her own specifically-defined relations towards the Government, and her rights can be in no way compromised by the treaties between the United States and other Indian nations than by those between the United States and foreign powers. In assuming this position it is not to be inferred that the provisions of the treaties of those tribes materially differ on the subject of the General Council from those of the Cherokee treaty, but because the position taken is so manifestly correct and just that no one, I apprehend, will be found willing to deny it. While, therefore, the sympathies of race, contiguity of location, association, friendship, and of a common interest and destiny, unite her with

hooks of steel to all the tribes of the Indian Territory, questions affecting her rights can be fairly determined only by her own lawfully-defined relations with the Government.

UNITED STATES COURTS.

And the same is true of any authority conferred upon Congress to create courts of the United States in the Indian Territory. Their jurisdiction in its application to the Cherokees must be limited by the terms of the treaty. The 13th article of the treaty of 1866 reads thus :

The Cherokees also agree that a court or courts may be established by the United States in said Territory, with such jurisdiction and organized in such manner as may be prescribed by law: *Provided*, That the judicial tribunals of the Nation shall be allowed to retain exclusive jurisdiction in all civil and criminal cases arising within their country in which members of the Nation by nativity or adoption shall be the only parties, or when the cause of action shall arise in the Cherokee Nation, except as otherwise provided in this treaty.

The exception here referred to may be found in the — article, which provides certain remedies between inhabitants of the Canadian and other districts of the Nation, and in no way affects the general provision of the article quoted. Having given its consent, the Cherokee Nation cannot and does not object to the creation of these courts in accordance with the terms of the treaty. But it must be evident to every member of the committee that their jurisdiction cannot be allowed to interfere with the local courts of the Nation. On the contrary, these are to be fully protected in the exercise of jurisdiction, civil and criminal, over native and adopted members of the Nation, in the character of cases described. You cannot lawfully abolish the courts of the Nation, and subject either native or adopted members to the unlimited jurisdiction of courts of the United States. My conclusion of this part of my remarks is, that the Cherokee Nation is guaranteed in self-government, and that Congress has no authority to establish any form of civil government that will interfere with, impair, or supersede that right without her voluntary consent.

TITLE TO LANDS.

I desire next to invite the attention of the honorable committee to the title by which the Cherokee Nation occupies and holds her lands.

I am aware that the resolution of the Senate which instructs the committee on this subject involves strictly only a legal proposition. But the latitude given to the investigation will excuse its consideration upon broader grounds. It is my purpose to show that her title, whether her lands are held in common or in severalty, is not to be affected by the conditional grants of land made to railroad corporations by Congress, to which her consent was in no way sought or given. And, further, that it is left to her own election whether her people shall continue to hold them in common, or divide them in severalty. So far as these conditional grants can affect their rights of ownership they are unimportant; so far only as they hang over the heads of the Indians as a menace, as a boundless corruption fund, they are gigantic. The Cherokees are nowhere mentioned as nomads. They had their provinces and villages in the days of De Soto, and held them by their prowess against all invaders, until they placed themselves under the protection of Great Britain, and then under the United States. By the fiction of power, their title was denominated one of occupancy. They claimed it was derived from the Great Spirit. To-day they hold one recognized as more valid in law, because derived from the United States. Omitting for the present, as superfluous, reference to the lands they held and still hold east of the Mississippi river, allow me to mention briefly the character of the guarantees by which they hold those in the Indian Territory.

State interests fixed the policy pursued towards the Indians within their limits. They wished to be rid of a population differing so widely from their own. The presence of the Indians in the enjoyment of any rights was deemed incompatible with the development of the soil and the progress of the whites. The only relief was to remove them by persuasion or force, or both. Homes had therefore to be obtained for them elsewhere, and pledges of protection in those homes to be given, to reconcile them to the relinquishment of their native streams and mountains. And they were given certainly in good faith, but under that state of sentiment, so

fruitful of sorrow and misfortune to the Indians, which so often causes them to be regarded as temporary expedients by succeeding generations, who make other equally solemn stipulations to be equally disregarded by their successors. The injurious and corrupting influence of such a policy is so palpable it is to be desired that this honorable committee will firmly withhold from it its approval and example. But what are the guarantees which attach to the lands of the Cherokees? Their origin dates back seventy years, to the administration of President Jefferson, when a portion of the Cherokees went west of the Mississippi, under his authority, to find a location that would suit them on lands which belonged to the United States, and for which they were to exchange a portion of their lands east of that river. The location chosen was the country on the Arkansas and White rivers, in the State of Arkansas, and it was confirmed by the treaty of 1817-1819. In connection with other matters not material to be stated for the purpose now in mind, the Cherokees who occupied those lands were denominated the "Western Cherokees," and the Government had been paid for them by receiving lands from the Eastern Cherokees. The treaty of 1828 was between the United States and the Cherokee Nation west, and I have already quoted from it as bearing upon the question of government. It was made partly, as set forth, "because their location in Arkansas was unfavorable to their present repose and tending to their future degradation and misery;" and because it was the "*anxious desire of the Government of the United States* to secure to the Cherokee Nation of Indians a *permanent* home, and which shall, under the most solemn guarantee of the United States, be and remain theirs forever." They were then on lands bought from the United States, to which the Indian title had been extinguished, and these they exchanged for others of the same character. This treaty is one of importance to the Cherokee Nation. Its first article, singularly enough for an Indian treaty, established the western boundary of the State of Arkansas, and that with the consent and co-operation of the Delegate in Congress from the Territory.

By the 2d Art., "the United States agree to possess the Cherokees and to guarantee it to them forever, and that guarantee is hereby solemnly pledged, of seven millions of acres of land, to be bounded as" then described. "In addition to the seven millions

of acres thus provided for and bounded, the United States further guarantee to the Cherokee Nation a perpetual outlet west, and a free and unmolested use of all the country lying west of the western boundary of the described limits, and as far west as the sovereignty of the United States and the right of soil extend."

By the 7th Art. In consideration of the stipulations and provisions of the preceding article, the Cherokees surrendered to the United States all the lands to which they were entitled in Arkansas, and which were secured to them by the treaty of 8th January, 1817, and the convention of the 27th February, 1819.

The 8th Art., in making provision for the removal of eastern Cherokees, again recites: "The Cherokee Nation west of the Mississippi having by this agreement freed themselves from the harassing and ruinous effects consequent upon a location amidst a white population, and secured to themselves and their posterity, under the solemn sanction of the guarantee of the United States as contained in this agreement, a large extent of unembarrassed country," &c.

Before proceeding further with reference to treaty provisions which bear upon the Cherokee title to lands, I desire to mention the legislation of Congress which was intermediate between the treaty of 1828 and 1833.

I refer to the act of May 28, 1830, the provisions of which were in accordance with the recommendations of Presidents Jefferson, Monroe, and Jackson, and the very spirit and intent of which was to secure the Indians in their lands and in governments of their own choice, subject to no other control, as President Jackson declared, from the United States than such as may be necessary to preserve peace on the frontier and between the several tribes. I repeat here only the language of the third section of that act:

That in the making of any such exchange or exchanges of lands it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made that the United States will forever secure and guarantee to them and to their heirs and successors the country so exchanged with them; and, if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, That such lands shall revert to the United States if the Indians become extinct or abandon the same.

The guarantees which Congress authorized the President to give were those already given the Cherokees in 1828, and repeated afterwards in the Treaty of 1833, which was supplemental to that of 1828, modified in part the boundaries of the Cherokee country as therein defined, and provided that letters-patent should be issued for the same. The treaty of 1835 with the Eastern Cherokees repeats the language of the treaty of 1833, and stipulated by its third article "That the lands ceded by that treaty, including the outlet and those ceded by this treaty, shall all be included in one patent executed to the Cherokee Nation of Indians by the President of the United States according to the provisions of the act of May 28, 1830." By the fourth article of the Treaty of 1835, "the United States hereby covenant and agree that the lands ceded to the Cherokee Nation in the foregoing article shall in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory." By the second article of the Treaty of 1835 the United States ceded to the Cherokee Nation 800,000 acres of land, commonly designated as the "neutral land," for the sum of \$500,000, by patent, in *fee simple*, and which was included in the patent with their other lands. To this tract I will further refer after quoting the patent. The patent is in these words :

Letters Patent to Cherokee Domain.

THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, greeting:

Whereas, by certain treaties made by the United States of America with the Cherokee Nation of Indians, of the 6th of May, one thousand eight hundred and twenty-eight, the 14th of February, one thousand eight hundred and thirty-three, and the 29th of December, one thousand eight hundred and thirty-five, it was stipulated and agreed, on the part of the United States, that in consideration of the premises mentioned in the said treaties respectively, the United States shall guarantee, secure, and convey, by patent, to the said Cherokee Nation, certain tracts of land ; the descriptions of which tracts, and the terms and conditions on which they were to be conveyed, are set forth in the second and third articles of the treaty of the 29th of December, one thousand eight hundred and thirty-five, in the words following, that is to say : " Article 2d. " Whereas, by the treaty of May 6th, one thousand eight hundred

“ and twenty-eight, and the supplementary treaty thereto of February 14th, one thousand eight hundred and thirty-three, with the Cherokees west of the Mississippi, the United States guaranteed and secured to be conveyed by patent to the Cherokee Nation of Indians the following tract of country: beginning at a point on the old western territorial line of Arkansas Territory, being twenty-five miles north from the point where the territorial line crosses the Arkansas river; thence running from said north point south on the said territorial line where the said territorial line crosses Verdigris river; thence down said Verdigris river to the Arkansas, thence down said Arkansas to a point where a stone is placed opposite the east or lower bank of Grand river at its junction with the Arkansas; thence running south forty-four degrees west one mile; thence in a straight line to a point four miles northerly from the mouth of the north fork of the Canadian; thence along the said four-mile line to the Canadian; thence down the Canadian to the Arkansas; thence down the Arkansas to a point on the Arkansas where the eastern Choctaw boundary strikes said river, and running thence with the western line of Arkansas Territory, as now defined, to the southwest corner of Missouri; thence along the western Missouri line to the land assigned the Senecas; thence on the south line of the Senecas to the Grand river; thence up said Grand river as far as the south line of the Osage reservation extended if necessary; thence up and between said south Osage line, extended west if necessary, and a line drawn due west from the point of beginning to a certain distance west, at which a line running north and south from said Osage line to said due west line, will make seven millions of acres within the whole described boundaries. In addition to the seven millions of acres of land thus provided for and bounded, the United States further guarantee to the Cherokee Nation a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said seven millions of acres, as far west as the sovereignty of the United States and their right of soil extend: *Provided, however,* That if the saline or salt plain on the western prairie shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plain in common with the Cherokees, and letters-patent shall be issued by the United States as soon as practicable for the land hereby guaranteed. And whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi, the United States, in consideration of the sum of five hundred thousand dollars, therefore hereby covenant and agree to convey to the

" said Indians and their descendants, by patents in fee simple, the
 " following additional tract of land situated between the west line
 " of the State of Missouri and the Osage reservation, beginning at
 " the southeast corner of the same, and runs north along the east
 " line of the Osage lands fifty miles to the northeast corner there-
 " of; and thence east to the west line of the State of Missouri;
 " thence with said line south fifty miles; thence west to the place
 " of beginning; estimated to contain eight hundred thousand acres
 " of land; but it is expressly understood that if any of the lands
 " assigned the Quapaws shall fall within the aforesaid bounds, the
 " same shall be reserved and excepted out of the lands above
 " granted, and a *pro rata* reduction shall be made in the price to
 " be allowed to the United States for the same by the Cherokees.
 " Article 3d. The United States also agree that the lands above
 " ceded by the treaty of February 14, one thousand eight hundred
 " and thirty-three, including the outlet, and those ceded by this
 " treaty, shall all be included in one patent, executed to the Cherokee
 " Nation of Indians by the President of the United States, accord-
 " ing to the provisions of the act of May 28, one thousand eight
 " hundred and thirty. It is, however, agreed that the military
 " reservation at Fort Gibson shall be held by the United States.
 " But should the United States abandon said post, and have no
 " further use for the same, it shall revert to the Cherokee Nation.
 " The United States shall always have the right to make and estab-
 " lish such post and military roads and posts in any part of the
 " Cherokee country as they may deem proper for the interest and
 " protection of the same, and the free use of as much land, timber,
 " fuel, and materials of all kinds for the construction and support
 " of the same as may be necessary: *Provided*, That if the private
 " rights of individuals are interfered with a just compensation
 " therefor shall be made."

And whereas the United States have caused the said tract of
 seven millions of acres, together with the said perpetual outlet, to
 be surveyed in one tract, the boundaries whereof are as follows:

Beginning at a mound of rocks four feet square at base, and four
 and a half feet high, from which another mound of rocks bears
 south one chain, and another mound of rocks bears west one chain,
 on what has been denominated the old western territorial line of
 Arkansas Territory, twenty-five miles north of Arkansas river;
 thence south twenty-one miles and twenty-eight chains to a post on
 the northeast bank of the Verdigris river, from which a hackberry
 fifteen inches in diameter bears south sixty-one degrees thirty-one
 minutes east, forty-three links, marked C. H. L., and a cottonwood,
 forty-two inches diameter bears south twenty-one degrees fifteen
 minutes east, fifty links, marked C. R. K. L.; thence down the
 Verdigris river on the northeast bank, with its meanders to the

junction of Verdigris and Arkansas rivers; thence from the lower bank of Verdigris river, on the north bank of Arkansas river, south forty-four degrees thirteen minutes east, fifty-seven chains, to a post on the south bank of the Arkansas river opposite the eastern bank of Neosho or Grand river, at its junction with the Arkansas, from which a red oak thirty-six inches diameter bears south seventy-five degrees forty-five minutes west, twenty-four links, and a hickory twenty-four inches diameter bears south eighty-nine degrees east, four links; thence south fifty-three degrees west, one mile, to a post from which a rock bears north fifty-three degrees east, fifty links, and a rock bears south eighteen degrees eighteen minutes west, fifty links; thence south eighteen degrees eighteen minutes west, thirty-three miles twenty-eight chains and eighty links to a rock, from which another rock bears north eighteen degrees eighteen minutes east, fifty links, and another rock bears south fifty links; thence south four miles to a post on the lower bank of the north fork of Canadian river, at its junction with Canadian river, from which a cottonwood twenty-four inches diameter bears north eighteen degrees east, forty links, and a cottonwood fifteen inches diameter bears south nine degrees east, fourteen links; thence down the Canadian river on its north bank to its junction with Arkansas river; thence down the main channel of Arkansas river to the western boundary of the State of Arkansas, at the northern extremity of the eastern boundary of the lands of the Choctaws, on the south bank of Arkansas river, four chains and fifty-four links east of Fort Smith; thence north seven degrees twenty-five minutes west, with the western boundary of the State of Arkansas, seventy-six miles sixty-four chains and fifty links to the southwest corner of the State of Missouri; thence north, on the western boundary of the State of Missouri, eight miles forty-nine chains and fifty links to the north bank of Cowskin or Seueca river, at a mound six feet square at base, and five feet high, in which is a post marked on the south side cor. N. ch. Ld.; thence west on the southern boundary of the lands of the Senecas eleven miles and forty-eight chains, to a post on the east bank of Neosho river, from which a maple eighteen inches in diameter bears south thirty-one degrees east, seventy-two links; thence up Neosho river, with its meanders, on the east bank, to the southern boundary of the Osage lands, thirty-six chains and fifty links west of the southeast corner of the lands of the Osages, witnessed by a mound of rocks on the west bank of Neosho river; thence west on the southern boundary of the Osage lands to the line dividing the territory of the United States from that of Mexico, two hundred and eighty-eight miles, thirteen chains and sixty-six links, to a mound of earth six feet square at base, and five and a half feet high, in which is

deposited a cylinder of charcoal twelve inches long, four inches diameter; thence south along the line of the territory of the United States and of Mexico, sixty miles and twelve chains, to a mound of earth six feet square at base, and five and a half feet high, in which is deposited a cylinder of charcoal eighteen inches long and three inches diameter; thence east along the northern boundary of the Creek lands, two hundred and seventy-three miles fifty-five chains and sixty-six links to the beginning; containing within the survey thirteen millions five hundred and seventy four thousand one hundred and thirty-five acres and fourteen-hundredths of an acre.

And whereas the United States have also caused the said tract of eight hundred thousand acres to be surveyed, and have ascertained the boundaries thereof to be as follows:

Beginning at southeast corner of Osage lands, described by a rock from which a red-oak, twenty inches diameter, bears south twenty-seven degrees east, seventy-six links, and a burr-oak, thirty inches diameter, bears south fifty-nine degrees west, one chain; and another burr-oak, thirty-inches diameter, bears north eight degrees west, one chain and thirty-seven links; and another burr-oak, forty inches diameter, bears north thirty degrees west, one chain and eighty-one links, and running east twenty-five miles, to a rock on the western line of the State of Missouri, from which a post-oak, ten inches diameter, bears north forty-eight degrees thirty minutes east, four chains; and a post-oak, twelve inches diameter, bears south sixty-two degrees east, five chains; thence north with the western boundary of the State of Missouri, fifty miles, to a mound of earth five feet square at base, and four and a half feet high; thence west twenty-five miles to the northeast corner of the lands of the Osages, described by a mound of earth six feet square at the base and five feet high; thence south along the eastern boundary of the Osage lands, fifty miles to the beginning; containing eight hundred thousand acres.

Therefore, in execution of the agreements and stipulations contained in the said several treaties, the United States have given and granted, and by these presents do give and grant, unto the said Cherokee Nation, the two tracts of land so surveyed, and herein-before described, containing in the whole 13,374,135.14 acres, to have and to hold the same, together with all the rights, privileges, and appurtenances thereunto belonging, to the said Cherokee Nation forever; subject, however, to the right of the United States to permit other tribes of red men to get salt on the salt plain, on the western prairie, referred to in the second article of the treaty of the twenty-eighth of December, one thousand eight hundred and thirty-five, which salt plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article, and subject, also, to all the other rights reserved to the United

States in and by the articles hereinbefore recited, to the extent and in the manner in which the said rights are so reserved, and subject, also, to the conditions provided by the act of Congress of the twenty-eighth of May, one thousand eight hundred and thirty, and which condition is that the lands hereby granted shall revert to the United States if the said Cherokees become extinct or abandon the same.

In testimony whereof I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the thirty-first day of December, in the year of our Lord one thousand eight hundred and thirty-eight, and of the independence of the United States the sixty-third.

[s. s.]

M. VAN BUREN.

By the President:

H. M. GARLAND,

Recorder of the General Land Office.

GENERAL LAND OFFICE.

I, James M. Edmunds, Commissioner of the General Land Office, do hereby certify that the annexed copy of a patent from the United States to the Cherokee Nation of Indians is a true and literal exemplification of said patent as recorded in vol. 9, pages 34, 35, 36, 37, 38, 39, 40, and 41, in Record of Donation Patents.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the City of Washington, on the day and year above written.

[SEAL.]

J. M. EDMUNDS,

Commissioner of the General Land Office.

By the treaty of 1868 so much of the 800,000 acres of the "neutral land" referred to above as were not disposed of under the Treaty of 1866 were sold by the Cherokee Nation to James F. Joy, of Detroit, Michigan. A suit at law grew out of this sale in the case of Holden *vs.* Joy, which was decided at the December term of 1871 (17 Wallace, 211) by the Supreme Court of the United States. As the opinion of the court bore directly on both the political character of the Cherokee Nation and the subject of her title to her lands, I have to beg the indulgence of the committee in allowing me to read again from that opinion, as I have done on other occasions when dwelling upon the same questions:

Indeed, treaties have been made by the United States with the Indian tribes ever since the Union was formed, of which numerous examples are to be found in the seventh volume of the public statutes. (*Cherokee Nation vs. Georgia*, 5 Pet., 17; *Worcester vs. Georgia*, 6 Pet., 543.)

Indian tribes are states in a certain sense, though not foreign states, or States of the United States, within the meaning of the second section of the third article of the Constitution, which extends the judicial power to controversies between two or more States, between a State and citizens of another State, between citizens of different States, and between a State or the citizens thereof and foreign states, citizens, or subjects. They are not states within the meaning of any one of these clauses of the Constitution; and yet, in a certain domestic sense and for certain municipal purposes, they are states, and have been uniformly so treated since the settlement of our country and throughout its history, and numerous treaties made with them recognize them as a people capable of maintaining the relations of peace and war, of being responsible, in their political character, for any violation of their engagements, or for any aggression committed on the citizens of the United States by any individual of their community.

Laws have been enacted by Congress in the spirit of those treaties, and the acts of our Government, both in the executive and legislative departments, plainly recognize such tribes or nations as states, and the courts of the United States are bound by those acts. (*Doe vs. Braden*, 16 How., 625; *Fellows vs. Blacksmith*, 19 How., 372; *Garcia vs. Lee*, 12 Pet., 519.)

Express power is given to the President, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur, and inasmuch as the power is given, in general terms, without any description of the objects intended to be embraced within its scope, it must be assumed that the framers of the Constitution intended that it should extend to all those objects which, in the intercourse of nations, had usually been regarded as the proper subjects of negotiation and treaty, if not inconsistent with the nature of our Government and the relation between the States and the United States. (*Holmes vs. Jennison et al.*, 14 Pet., 569; 1 Kent's Com., 166; 2 Story on Cons., sec. 1508; 7 Hamilton's Works, 501; Duer's Jurisp., 229.)

Beyond doubt the Cherokees were the owners and occupants of the territory where they resided before the first approach of civilized man to the western continent, deriving their title, as they claimed, from the Great Spirit, to whom the whole earth belongs, and they were unquestionably the sole and exclusive masters of the territory, and claimed the right to govern themselves by their own laws, usages, and customs.

Throughout, the Indians, as tribes or nations, have been considered as distinct, independent communities, retaining their original, natural rights as the undisputed possessors of the soil, from time immemorial, subject to the conditions imposed by the discoverers of the continent, which excluded them from intercourse with any other government than that of the first discoverer of the particular section claimed. They could sell to the government of the discoverer, but they could not sell to any other governments or their subjects, as the government of the discoverer acquired, by virtue of their discovery, the exclusive pre-emption right to purchase and the right to exclude the subjects of all other governments, and even their own, from acquiring title to the lands.

Enough has already been remarked to show that the lands conveyed to the United States by the treaty were held by the Cherokees under their original title, acquired by immemorial possession, commencing ages before the New World was known to civilized man. Unmistakably their title was absolute, subject only to the pre-emption right of purchase acquired by the United States as the successors of Great Britain, and the right also on their part, as such successors of the discoverer, to prohibit the sale of the lands to any other governments or their subjects, and to exclude all other governments from any interference in their affairs. (*Mitchel et al. vs. United States*, 9 Pet., 748.)

Evidently, therefore, the Cherokees were competent to make the sale to the United States, and to purchase the lands agreed to be conveyed to them by the second article of the treaty. Both parties concede that the title of the United States to the tract known as the Cherokee neutral lands was perfect and complete, and that the tract includes the land in controversy.

Title to that tract was acquired by the United States as a part of the Louisiana purchase from the French Republic. By the treaty between the United States and the French Republic of April 30, 1803, the chief executive officer of that republic ceded the said territory to the United States, with all its rights and appurtenances, forever. (8 Stat. at Large, 200.)

When the President took possession of the territory the absolute fee-simple title and right of sovereignty and jurisdiction became vested in the United States as the successor of the original discoverer, subject only to the Indian title and right of occupancy as universally acknowledged by all the departments of our Government throughout our history. All agree that this land then, and for many years thereafter, was occupied by the Osage Indians. On the 2d of June, 1825, the Osage tribes, by the treaty of that date, ceded to the United States all their right, title, interest, and claims to the lands lying * * * west of the State of Missouri, with such reservations and for such considerations as are therein speci-

fied, which, it is conceded, extinguished forever the title of the Osage Indians to the neutral lands. (7 Stat. at Large, 240.)

Prior to the treaty of the 8th of July, 1817, the Cherokees resided east of the river Mississippi. Pursuant to that treaty they were divided into two parties, one electing to remain east of the Mississippi and the other electing to emigrate and settle west of it, and it appears that the latter made choice of the country on the Arkansas and White rivers, and that they settled there upon the lands of the United States described in the treaty. (7 Stat. at Large, 157.)

Possessed as the United States were of the fee-simple title to the neutral lands, discharged of the right of occupancy by the Osage Indians, it was clearly competent for the proper authorities of the United States to convey the same to the Cherokee Nation. Subsequent acts of the United States show that the stipulations, covenants, and agreements of the treaty in question were regarded by all the Departments of the Government as creating binding obligations, as fully appears from the fact that they all concurred in carrying the provisions into full effect. (*Minis vs. United States*, 15 Pet., 448; *Porterfield vs. Clark*, 2 How., 76.)

Appropriations were made for surveys, and surveys were ordered and plats were made, and on the 1st of December, 1838, a patent for the land promised was issued by the President, in full execution of the second and third articles of the treaty. Among other things it is recited in the patent that it is issued in execution of the agreements and stipulations contained in the said several treaties, and that the United States do give and grant unto the Cherokee Nation the two described tracts of land, as surveyed, containing the whole quantity therein mentioned, to have and to hold the same, together with all the rights, privileges, and appurtenances thereto belonging, to the said Cherokee Nation forever, subject to certain conditions therein specified, of which the last one is that the lands hereby granted shall revert to the United States if the said Cherokee Nation becomes extinct or abandons the premises.

Objection is made by the appellant that the treaty was inoperative to convey the neutral lands to the Cherokee Nation, which may well be admitted, as none of its provisions purport, *proprio vigore*, to make any such conveyance. Nothing of the kind is pretended, but the stipulation of the second article of the treaty is that the United States covenant and agree to convey to the said Indians and their descendants, by patent in fee simple, the described additional tract, meaning the tract known as the neutral lands; and the third article of the treaty stipulates that the lands ceded by the treaty, as well as those ceded by a prior treaty, shall all be included in one patent, to be executed to the Cherokee Nation of Indians by the President, according to the provisions of the before-

mentioned act of Congress. (*Gaines vs. Nicholson*, 9 How., 356; *Insurance Company vs. Canter*, 1 Pet., 542.)

Suppose that is so, still it is insisted that the President and Senate, in concluding such a treaty, could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. (*United States vs. Brooks*, 10 How., 442; *Meigs vs. McClung*, 9 Cran., 11.)

On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political. (*Wilson vs. Wall*, 6 Wall., 89; *Insurance Co. vs. Canter*, 1 Pet., 542; *Doe vs. Wilson*, 23 How., 461; *Mitchel et al. vs. United States*, 9 Pet., 949; *United States vs. Brooks et al.*, 10 How., 460; the *Kansas Indians*, 5 Wall., 737; 2 Story on Const., sec. 1508; *Foster et al. vs. Neilson*, 2 Pet., 254; *Crews et al. vs. Burcham*, 1 Black, 356; *Worcester vs. Georgia*, 6 Pet., 562; *Blair vs. Pathkiller*, 2 Yerger, 439; *Harris vs. Burdett*, 4 Blackf., 369.)

Much reason exists, in view of those authorities and others which might be referred to, for holding that the objection of the appellant is not well founded, but it is not necessary to decide the question in this case, as the treaty in question has been carried into effect and its provisions have been repeatedly recognized by Congress as valid. (*Insurance Co. vs. Canter*, 1 Pet., 511; *Lawrence's Wheat*, 48.)

Congress, on the 2d of July, 1836, appropriated four million five hundred thousand dollars for the amount stipulated to be paid for the lands ceded by the Cherokees in the first article of the treaty, deducting the cost of the land to be conveyed to them west of the Mississippi under the second article of the same treaty, which is the precise amount stipulated to be paid for the concession, deducting the consideration which the Indians agreed to allow for the neutral lands. Appropriations were also made by that act to fulfil and execute the stipulations, covenants, and agreements contained in the fourth, eleventh, seventeenth, and eighteenth articles of the treaty, and for the removal of the Cherokees, and for surveying the lands set apart by treaty stipulations for the Cherokee Indians west of the Mississippi river. (5 Stat. at Large, 73.) * * *

Two objections are made to the title of the appellee as affected by that treaty, in addition to those urged to show that the prior treaty between the same parties was inoperative and invalid. It is contended by the appellant that the Cherokee possessory right to the neutral lands was extinguished by the seventeenth article of the treaty, which undoubtedly is correct, but the conclusion which

he attempts to deduce from that fact cannot be sustained, that the Cherokee Nation abandoned the lands within the meaning of the last condition inserted in the patent by which they acquired the same from the United States.

Strong doubts are entertained whether that condition in the patent is valid, as it was not authorized by the treaty under which it was issued. By the treaty the United States covenanted and agreed to convey the lands in fee-simple title, and it may well be held that if that condition reduces the estate conveyed to less than a fee, it is void; but it is not necessary to decide that point, as it is clear that if it is valid, it is a condition subsequent, which no one but the grantor in this case can set up under any circumstances. (4 Kent Com., 127-130; Cooper *vs.* Roberts, 18 How., 181; Keene *vs.* Plummer, 28 Mo., 145.)

As bearing further upon this question of title, your attention is also invited to a clause in the 16th article of the treaty of 1866. The Cherokees alienated none of their lands within the Indian Territory, so as to become what are commonly denominated "public lands of the United States," by that treaty. They simply agreed that the United States might settle friendly Indians upon that portion of them named in the 16th article, upon the explicit stipulation that they should be conveyed to the Indians in *fee simple*, to be held in common or in severalty, as the United States may decide. It is left to the discretion of the United States to say whether the Osages, the Kaws, the Pawnees, and other Indians located on these Cherokee lands shall hold them in common or in severalty—but not as to the character of their title; it must be conveyed to them in *fee simple*. And why? Because the Cherokee Nation regarded that as the character of her own title, and she was willing to part with her lands for the settlement of Indians only within the Indian Territory whose tenure should be equally valid with her own, and for the evident purpose of retaining them as Indian lands. Lastly, as bearing directly upon these and other provisions of not only the Cherokee treaties from which I have been quoting, but upon all other Indian treaties, I desire to repeat the *proviso* to the act of March 3, 1871, which prohibited the negotiation of further Indian treaties. It is in these words: "*Provided*, That nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any Indian tribe." And that is the character of the twenty-one treaties made

with the Cherokee Nation from 1785, under the Confederation, to 1868, under the Constitution.

ALLOTMENT OF LANDS.

In regard to the allotment of the lands of the Cherokee Nation, that is a question disposed of by the treaty of 1866, and is equally removed from the authority and interference of Congress as their title itself. On this subject the language of the 20th article of the treaty of 1866 is in these words:

Whenever the Cherokee National Council shall request it, the Secretary of the Interior shall cause the country reserved for the Cherokees to be surveyed and allotted among them at the expense of the United States.

The Cherokee National Council, the legislature of the Cherokee Nation, consisting of the Senate and Council, and composed of the representatives of the Cherokee people, possessing the qualifications required by their constitution and laws, is the authority, the only authority, invested with power to act upon the subject of allotment. Nothing can be plainer than that the whole question is removed from Congress. Before applying these facts to the particular inquiry entrusted to this committee in respect to the legal effects of allotment upon the conditional grants of lands made to the railroad corporations which have entered the Cherokee country with their lines of road, I desire to present the relations existing between

THE CHEROKEE NATION AND RAILROADS.

In order that there may be no misapprehension on this head, I will again speak from the record.

Here it is in the words of Article eleven, treaty of 1866, (page 89, Rev. Indian Treaties:)

The Cherokee Nation hereby grant a right of way not exceeding two hundred feet wide, except at stations, switches, water-stations, or crossing of rivers, where more may be indispensable to the full enjoyment of the franchise herein granted, and then only two hundred additional feet shall be taken, and only for such length as may be absolutely necessary, through all their lands, to any company or corporation which shall be duly authorized by Congress

to construct a railroad from any point north to any point south, and from any point east to any point west of, and which may pass through, the Cherokee Nation. Said company or corporation, and their employés and laborers, while constructing and repairing the same, and in operating said road or roads, including all necessary agents on the line at stations, switches, water-tanks, and all others necessary to the successful operation of a railroad, shall be protected in the discharge of their duties, and at all times subject to the Indian intercourse laws now or which may hereafter be enacted and be in force in the Cherokee Nation.

The attention of the honorable Committee is invited to these observations, in passing on the provisions of this article, the only one which in any way connects the Cherokees with the subject of railroads :

1. The Cherokee Nation has granted simply the *right of way*, not of title to land, to only two roads—one from north to south, the other from east to west across her domain.

2. They grant only such privileges as may be necessary for operating these roads.

3. The employés of the roads are to be subject at all times to the laws of the United States regulating "intercourse" with the Indians.

There is no grant of lands to these corporations; no authority for either of the roads to enter and establish a terminus within the country; no other laws or form of government authorized or contemplated for the protection of the roads and their employés than laws regulating intercourse with the Indians, and which have a distinctive and well defined character among the laws of the United States.

FUNDS.

The 23d article of the Treaty of 1866 respecting the funds of the Cherokee Nation is in these words :

All funds now due the Nation, or that may hereafter accrue from the sale of their lands by the United States as hereinbefore provided for, shall be invested in United States registered stocks at their current value, and the interest on all said funds shall be paid semi-annually on the order of the Cherokee Nation, and shall be applied to the following purposes, to wit : Thirty-five per cent.

shall be applied for the support of the common schools of the Nation and educational purposes, fifteen per cent. for the orphan fund, and fifty per cent. for general purposes, including reasonable salaries of district officers.

It is respectfully submitted that this stipulation was evidently designed to secure and does secure these objects: the investment of the funds of the Nation in the safe and productive stocks of the United States, instead of allowing it to be done in the unsafe and non-paying stocks of individual States as had been the case, and the full control of all her funds by the Cherokee Nation. The agreement is that their funds shall be invested in United States registered stocks, and that the interest on all such funds shall be paid semi-annually on the order of the Cherokee Nation. There is no qualification, no limitation. Any clause in any previous treaty in conflict with the agreement must yield. This is the rule of construction everywhere in regard to statutes. And surely where the parties to both treaties are the same, the later agreement must prevail.

The inquiry under this head has been confined to the school funds of the Cherokees. The resolution applies only to the use of school funds in the support of delegations; the investigation was allowed a much wider range. While we have shown that the treaty requires the payment of all funds as they become due to the Cherokee Nation, the official reports of the treasurer of the Cherokee Nation show that there has been no application of the school funds to the purposes specified in the resolution of the Senate, and none to any other purpose in such manner as to constitute a misapplication of these funds. More than half the annual income of the Nation from its funds held in trust by the Secretary of the Interior, is applied to educational purposes. By the operations of the Treaty of 1866 that income has been largely increased within ten years. Had the school funds borne a reasonable share of the expense incurred in effecting that increase, it should not have been reasonably alleged to constitute a misapplication of them. But such has not been the case, the national fund having borne the burden itself of defending and advancing all the rights and interests of the Cherokee Nation. And the condition of the educational interests of the Cherokee people may justly challenge the sympathy and encouragement of every heart alive to the improvement of their children and youth, and hopeful of the elevation and per-

petuation of their race. I do not claim perfection or exemption from error for the authorities of the Cherokee Nation in their system of education and the management of their schools any more than on other heads in the administration of their affairs. Mistakes may have been made and errors may exist, but statistics show that but very few States of this Union are expending according to population more of their funds and educating more of their children than the Cherokees. Having been the president of their Board of Education during the last year, I desire to confirm the correctness of the report of John L. Adair, secretary, now on file before this committee, in regard to the schools of the Nation, to bear my testimony to the character and qualifications generally of the teachers employed, both white and native, and here to bid them God-speed in the noble work in which they are employed, whether it be in the log-cabin by the side of a clear stream among the hills, or in a clump of trees looking out upon the prairies, or in the more substantial edifices appropriated to our orphan and high schools. The ruthless hand of man may destroy their work, but never the impress of their influence and spirit. They are the great instruments of civilization, the trusty helpmates of humanity, the quiet workers working out the solution of the Indian problem.

An aggregate attendance of more than 2,800 children last year in their orphan asylum, male high school, female high school, and seventy-eight primary schools, indicates a condition of education among them of which they are not ashamed.

FREEDMEN.

Although not specifically enumerated in the resolutions of the Senate, the condition of freedmen in the Cherokee country formed a part of the investigation of the sub-committee on their visit in November to the Indian Territory. In order to place this subject upon its proper foundation, it is necessary to refer once more to the treaty of 1866. Here is the language of its 9th article:

The Cherokee Nation having voluntarily, in February, eighteen hundred and sixty-three, by an act of their National Council, forever abolished slavery, hereby covenant and agree that never hereafter shall either slavery or involuntary servitude exist in their nation otherwise than in the punishment of crime, whereof the

party shall have been duly convicted in accordance with laws applicable to all the members of said tribe alike. They further agree that all freedmen who have been liberated by voluntary act of their former owners, or by law, as well as all free colored persons who were in the country at the commencement of the rebellion and are now residents therein, or who may return within six months, and their descendants, shall have all the rights of native Cherokees: *Provided*, That owners of slaves so emancipated in the Cherokee Nation shall never receive any compensation or pay for the slaves so emancipated.

The stipulations respecting freedmen in the Cherokee Nation have, in the main, been carried into effect. Not less than one thousand and seven hundred of them have been recognized as citizens and are treated as such. They cultivate all the land they desire, locate where they please, and are generally orderly, contented, and prosperous. Seven primary schools, with eight teachers, established by the Nation and supported from the common funds for their special benefit, are in operation. The directors of these schools are all colored men. One of the teachers is also of the same race. He was subjected at the same time to the examination imposed on other applicants for schools, and stands in all respects as other teachers of the same grade. I admit their children have not been received into the orphan and high schools, and that there are those who have not participated in the benefits of the common schools. But such is the case with many native Cherokees in regard to the orphan and primary schools. It is impossible to locate a school at every man's door. I offer no excuse for delay in according every right that may be lawfully claimed by every colored citizen in the Nation, and am willing and desirous that they shall have them to the fullest extent. But while I believe that there are some of this class of persons in the country whose rights have not been determined as promptly as they should have been, it is equally due to truth to state that complaints under this head come largely from those who are barred by the limitation prescribed by the Treaty of 1866. Whatever may be my sympathies in their case, the question involved, in the first place, is one of law, and in the second place, one of economy, in the admission of several hundred persons to equal rights and participation in the lands, funds, and franchises of the Nation. The letter of Wm. H. Leeds, Commissioner of the Indian Bureau, (page 523,) will show the views of the department in

regard to the status of those colored persons in the Nation who fall within the limitation of the treaty, while the statement of John F. Lyons, attorney on behalf of the Nation before the Commission to settle questions of Cherokee citizenship, on pages 592, 3, 4, 5, 6, of your printed testimony, show the proceedings of the Commission in these cases, and the provisions of the act creating it. The Commission has been in session several months, and is still under authority to do justice to these colored claimants and all others to citizenship in the Nation. It is a subject which legitimately belongs to it, and which a reasonable regard for their own rights and interests requires the Cherokees to retain and exercise with discretion as well as justice. The belief that there is value attaching to citizenship has brought to the surface an unknown quantity of claimants to Indian blood, and a few of whom it is believed are ready to resort to unfair means to gain their end.

The pertinency of this and other quotations made from the treaties between the United States and the Cherokee Nation, constituting as they do a part of the "supreme law of the land," will be evident in their application to the subjects of inquiry embraced in the resolutions of Mr. Voorhees, and to which my closing remarks will be directed.

RAILROAD BONDS.

The first of the resolutions of Mr. Voorhees instructs the committee to ascertain whether the railroad companies, therein referred to, have issued bonds of any kind, predicated upon the conditional land grants of the lands of the Indians of the Indian territory claimed by said companies under said acts. If it be ascertained that such bonds have been issued, then it shall be the duty of said committee to ascertain in whose possession the bonds are, and for what purpose. The evidence taken by the committee establishes the fact that bonds have been issued by the two companies who have railroads in the Cherokee Nation—the Atlantic and Pacific road, incorporated under "An act granting land to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast," and the Missouri, Kansas, and Texas Railway, successor to the Kansas and Neosho Valley Railroad and the southern branch of the Union-Pacific Railway. By the former company, as will be seen from the testimony of James

Baker, Esq., attorney for the road, bonds were issued in 1871 to the amount of \$1,200,000 on the road, and \$500,000 upon land upon the side of the road, making the sum of \$1,700,000, and which were sold to raise funds with which to build the road in the Indian territory, which is thirty-six or thirty-seven miles in length, but where they are does not appear, further than that they seem to be in various hands. It further appears, from the statement of the same gentleman, that his road has failed to comply with the requirements of its charter in the time allowed for its construction, and that the "Franklin bill" to organize the Territory of Oklahoma contained a proposition which he proposed to have incorporated in the "Craven's bill," of the same general character as the other, offering to relinquish their conditional land grants in case the Indian territory shall be opened to settlement. The issue of bonds and the connection of that company with bills to organize a territorial form of government by Congress over the Indian territory are thus established, and show one source of the agitation of this question before Congress. The testimony of Mr. G. D. L. Huilier, secretary of the bondholders, establishes the fact that \$14,600,000 of bonds, (first mortgage,) worth forty-two or forty-three cents on the dollar, were issued by the Missouri, Kansas, and Texas Railway on their road from Sedalia, Missouri, to Denison, Texas, a distance of between 500 and 600 miles, and 250 miles of which are in the Indian territory, extending over the lands of the Cherokees, the Creeks, the Choctaws, and the Chickasaws. These bonds are held in Amsterdam, London, Paris, and New York. The attorney of their holders has been active in parts of this investigation, pushing territorial schemes upon the attention of Congress and making complaints of the expenditure of their own money by the tribes of the Indian territory in resisting these schemes of aggression and spoliation.

In view of these proven facts how hollow and hypocritical are the outpourings from such sources of Indian rings, Indian expenditures, Indian intimidation, and Indian corruption will be shown by reference to statements about the securities of the *Missouri, Kansas and Texas Railway*, which do not appear in the evidence, but are germane to the investigation.

STOCK AND BONDS OUTSTANDING.

Stock.....	\$21,405,000
1st mortgage, gold, sinking fund on road and land....	2,433,000
1st mortgage, gold, (Tebo and Neosho).....	349,000
Consolidated mortgage, 7 per cent. gold	14,752,000
2d mortgage income (for \$10,000,000) issued.....	6,025,500
Hannibal and Central Missouri, 1st mortgage	800,000

Total\$45,764,500

* The net earnings, 1875.....	\$1,360,000
“ “ 1876.....	1,371,883
“ “ 1877.....	1,048,664

According to a statement published in the New York *Daily Tribune* the gross earnings of the road were—

For the year ending July 31, 1877.....	\$1,684,058
“ “ “ 1878.....	1,475,686

Showing a decrease of..... \$208,372

The following table shows the highest and lowest quotations of each kind of securities for each of the last six months of 1878, according to the excellent authority of the *Financial Chronicle*, (January 4, 1879:)

MONTH.	STOCK.		ASSENTED BONDS— 7 per cent.		2ND MORTGAGE BONDS.	
	Highest.	Lowest.	Highest	Lowest.	Highest.	Lowest.
July	3	2½	42	40	Not quoted	
August.....	2½	2	40	39½	Not quoted	
September.....	4½	2½	41½	39½	11	10
October.....	4½	3½	43½	42	11	10½
November.....	7½	4½	53½	42	18½	10
December.....	7½	5	55	* 47½	19½	14½

The advance which took place in all classes of securities of this road in the month of November cannot fail to be noticed, notwithstanding the falling off of the net and aggregate receipts.

The stock, which was at 4½, advanced to 7½, or exactly 75 per

* Year ending December 31.

cent; assented bonds rose from $42\frac{3}{8}$ to $53\frac{1}{8}$, or nearly 25 per cent.; and the second mortgage bonds advanced from $14\frac{1}{8}$ to $19\frac{3}{8}$, or more than 37 per cent.; making an average increase on the several securities of *nearly 46 per cent.*

The amount of sales increased in a still more remarkable ratio.

According to the money market reports of the New York *Daily Tribune*, from the 2d to the 12th of September, both inclusive, (10 days,) only seven hundred shares of the stock of this road changed hands, though it was quoted at 2 to $2\frac{3}{4}$; from September 19 to 28, both inclusive, (8 days,) the sales amounted to 10,803 shares, the quotations ranging from $3\frac{1}{8}$ to 4; while in ten business days of November, (16th to 27th,) the amount of sales was 25,263 shares, from $4\frac{7}{8}$ to $7\frac{1}{8}$.

In the same period, according to the same authority, the sales of assented bonds were as follows: September 2d to 12th, \$15,000, at $39\frac{1}{2}$ to 42; September 19th to 29th, \$86,000, at 43 to 44; November 16th to 27th, \$531,900, at $42\frac{3}{8}$ to $53\frac{1}{8}$.

According to the same authority and for the same periods the sales of second mortgage bonds were as follows: September 2 to 12, *none*; September 19 to 29, \$12,500, at 10 to 11; from November 16 to 27, \$550,500, at $14\frac{1}{8}$ to $19\frac{3}{8}$.

The *Tribune's* money article of November 20, 1878, said: "The Missouri, Kansas, and Texas securities were higher to-day." That day \$71,000 of second mortgage bonds sold at $14\frac{1}{2}$ to 16. Two days before (November 18) \$61,000 sold at $11\frac{3}{4}$ to $12\frac{3}{4}$.

In the *Tribune's* money article of November 21, 1878, I find: "Railroad bonds again demanded attention. Missouri, Kansas, and Texas firsts and seconds were especially prominent, at an advance to $47\frac{1}{8}$ and 16, respectively."

These figures tell their own tale. They show a remarkable advance in all the securities of the road and remarkable increase in their sales, especially during the month of November. They show that the advance and increase occurred in the face of diminished earnings. And they show another important fact worthy of the consideration of this committee, and that is, the advance mentioned exceeds in amount the total value of the securities held in trust by the Secretary of the Interior for the Cherokees. It was doubtless predicated upon the possible action of this committee and this Con-

gress in changing the condition of the Indian Territory. And if possibility produces such remarkable results, what would not reality produce? Truly, indeed, one can but be impressed with the conviction "that there are millions in it." Well may the Indians stand appalled before this startling exhibit of the power that may be brought to bear down upon them with the overwhelming destruction of an avalanche. Well may they implore this honorable committee, and through it the Senate of the United States, to stand as it has always stood, and as the civilized world expects it to stand—the refuge of the weak and the bulwark of justice.

Well may the company be willing to relinquish all pretension to grants upon these lands to effect the opening of the Territory to settlement for the purpose of creating business for their road. The philosophic resignation to accept "a half loaf rather than no bread at all," if it fail to remove the popular belief that "corporations have no souls," establishes beyond controversy that they have at least stomachs, moved by the gnawings of hunger, and perhaps the cravings of thirst.

The Cherokees are not opposed to progress and improvement, nor the enemies of these corporations; but they dare stand in respectful defence of all that is clearly their own. They will not meekly surrender their homes and their institutions, their hopes and aspirations for their children, to swell the coffers and enhance the material values of the capitalists of New York, Paris, London, and Amsterdam. They have complied in good faith with all their obligations to these corporations, fulfilling their own duties, and neither endangering nor disturbing their privileges nor property; and the suggestions of wisdom and of humanity should move them to co-operate in the legitimate improvement of the people and stay the hand of aggression.

ALLOTMENT.

So far as the allotment of Cherokee lands would affect the validity of the railroad grants, I care but little for the legal question it presents. I have shown you that the Cherokee Nation occupies her own lands; that she holds a patent for them from the United States; that the manner of tenure in which they see proper to hold them,

whether in common or in severalty, is left entirely to their option. They are in no sense a party to any agreement, direct or implied, with any railroad corporation, which vitiates or impairs or endangers their own rights, nor are they to be compromised by any between the United States and these corporations by their charters of 1866. They never imposed any obligations on the Cherokees, but even according to the modern doctrine as claimed for the opinion of the Supreme Court in the Cherokee Tobacco Case, which the untutored intellects of the Indians regard as attenuated law and shadowless justice, the subsequent legislation of Congress in 1871 reaffirms all their rights in the premises. So far, then, as these grants can affect the question of title which vests in the Cherokees, they are utterly void and worthless, and are worthy of consideration by the Cherokees only so far as they furnish a lever to be used in unsettling their condition. The Atlantic and Pacific Company is shown by its attorney to have failed to comply with the terms of their incorporation and thus to have forfeited its charter, and their road constitutes to-day an unlawful trespass upon every foot of Cherokee soil upon which it rests. Their right is the right of way from a point east to a point west of the Cherokee country. It is across the country, but not into the country, and there to fix a terminus to be used as a basis of attack upon all the rights and privileges, the very existence, of the nation itself.

INTIMIDATION.

The plea of intimidation put up by some of the advocates of change in the condition of the Territory signally fails of proof. My hasty examination of the evidence has failed to reveal the name of a native-born Cherokee who urged it; while the insignificant number of whites who did so must have impressed the Committee with evidence of their insincerity and of their purpose to invest themselves with an importance which does not attach to such persons, even in the Cherokee Nation. Whatever may be the sentiments of disapprobation felt indiscriminately by red, white, and black, for the conduct of three or four white men, who have made themselves citizens of the Cherokee Nation by the liberal provisions of her laws on the subject of marriage, who receive the protection of its laws, who participate in its funds, who educate

their children at the public expense, who cultivate all the soil their aversion to labor allows, who vote at elections, and who cling with the tenacity of barnacles to the sides of the vessel that they would scuttle and sink for prospective gain, without contributing a farthing for the privileges they enjoy, and whose examples and sentiments tend only to evil and demoralization, there is no instance where one of them has been personally injured on account of his views. True, they may be despised, but by none so much as by themselves. Conscious of self-abasement, they do become objects of pity in the minds of the humblest of their fellow-men, but never of harm or violence.

Passing over the statements of these persons, among which I include that of Edgar Poe Harris, M. D., a man of prostituted culture and genius, whose pretence to citizenship was denied by the supreme court of the Nation several years ago, and who made his appearance at a camp of Confederate Cherokees shortly after the terrible Quantrell massacre at Lawrence, Kansas, and in consequence of which, as I have been informed, he was ordered away by the commanding officer; I desire to call the attention of the Committee to the carefully prepared statement of the Rev. S. W. Marston, D. D., late U. S. agent for the Union agency. The prominence of this witness in the ministry and in official dignity invests his views with an importance they might not otherwise merit. The statements of Dr. Buckner and Rev. W. S. Robertson, who have spent very many more years of ministerial life in spreading education and religion among the Indians than Dr. Marston has in office-holding among them, would amply reply to him; but I prefer to bring forward a more material witness for the purpose in hand than either of those veterans in Indian civilization in refuting the statements he made at Fort Scott, and which can but be regarded as derogatory to the condition, character, and prosperity of the Indians so recently under his charge. Dr. Marston states that but few whites leave the Territory who once enter its charmed circle. He acknowledges himself to be of the number, and anticipates the Indian by describing himself as an intruder, and who, I may add, while junketing through the Indian country with the distinguished gentlemen who accompanied your "special," smiled upon the "natives," and

"Promised fair and performed but ill."

In his annual report of September 11, 1878, Agent Marston said: "My work has not been to protect these tribes from cold and hunger by furnishing them with clothing and food (they are not supplied by the United States Government) as much as it has been to protect them in their treaty rights against the impositions and craftiness of dishonest white men. I would not intimate by this remark that there are no real good and honest white men among these tribes. There are very many, but those who are unscrupulous, selfish, unprincipled, and *indolent* far outnumber them." In his Fort Scott statement, when making out a case against the habits of the Cherokees, he says: "That during two consecutive months of this year, prior to the abolishment of the agency, I issued, at the request of Cherokee citizens, about six hundred permits to white men to reside among the Cherokees as their employés or renters. These United States citizens, with their families, are employed as farmers and mechanics, and once in the country they usually remain." If the bad white men in the country were so numerous, why did not Agent Marston remove them, and why did he use his official privileges to swell the number at the rate of four or five thousand per annum, most of whom, he believed, would remain? Was it a part of the programme thus to overrun the country and give strength to the plea that the number of whites within it is so large that the extension of United States law is necessary for their protection and government?

Again: "As I remarked in my last report, 'Each tribe or nation has a constitutional government, with legislative, judicial, and executive departments, and conducted on the same plan as our State governments, the entire expenses of which are paid out of their own funds, which are derived from interest on various stocks and bonds, the invested proceeds of the sale of their lands, and held in trust by the Government of the United States, which interest is paid the treasurers of the different Nations semi-annually, and by them disbursed on national warrants issued by the Principal Chief and Secretary, and registered by the auditors.'"

Except among the Seminoles, none of the money thus paid is used "*per capita*," but is devoted exclusively to carrying on the government and the support of schools. The amounts thus received and disbursed are, Cherokees, \$160,000; Creeks, \$75,000; Choctaws, \$60,000; and Chickasaws, \$60,000.

The Cherokees are well advanced in civilization, and are an intelligent, temperate, and industrious people, who live by the honest fruits of their labors, and seem ambitious to advance, both as to the development of their lands, and the conveniences of their homes. In their Council may be found men of learning and ability ; and it is doubtful if their rapid progress from a state of wild barbarism to that of civilization and enlightenment has any parallel in the history of the world. What required 500 years for the Britons to accomplish in this direction, they have accomplished in 100 years.

They have ample provisions for the education of all their children to a degree of advancement equal to that furnished by an ordinary college in the States. They have seventy-five common day schools, kept open ten months in the year, in the different settlements of the Nation. Then for the higher education of their young men and women they have two commodious and well-furnished seminaries, one for each sex, and, in addition to those already mentioned, they have a manual-labor school and an orphan asylum.

All these buildings used for school purposes are of the best style of architecture, and all are equipped with furniture and fixtures of the latest and best manufacture. The cost of maintaining these schools the past year was, as reported by the Superintendent of Public Instruction, \$73,441.65, of which \$41,475 was paid as salary to teachers and \$31,666.65 for other purposes."

LAW AND ORDER.

An appeal for legislation is made in behalf of law and order in the Indian Territory. I deny that there is an excess of crime in the Cherokee Nation or the Indian Territory, in comparison with many portions of the States. The records of the court for the western district of Arkansas do not conflict with this statement, when it is borne in mind that the jurisdiction of the court covers an area of more than 40,000 square miles and of all criminal cases arising between citizens of the United States and between such persons and Indians, and that all are arraigned at one place for trial. In a recent statement, which is apparently authentic, Judge Parker, who presides over that court, says :

Still, crime, especially of the higher grades, is decreasing. The

law is vigorously executed in the United States courts, and many of the Indian courts show great energy in the enforcement of the local laws. Several of the tribes have each a code of laws, which provides for the punishment of all offences against person or property among themselves.

To be sure, many murders have been committed there, but in no section of the country where animosities grew out of a divided sentiment and action during the late war has there been so little, and nowhere else have those animosities so generally disappeared. I do not claim exemption from crime, nor from errors in the administration of law and justice. I offer no justification for them, and deplore their occurrence; but such things occur elsewhere, everywhere, and in large sections of the country more frequently, to a larger extent and with far greater impunity, than in the Cherokee Nation. Crime has diminished, crime has been punished, and the "uncertainty of law" is no more there than in communities subject to the Constitution and laws of both the United States and of individual States. The very existence of lawless men and of crime in that Territory is not for the want of law; not because the Indians obstruct the enforcement of law, but because your own officers fail in some instances to enforce your own laws. Why are not the laws against intrusion and trespass enforced? Why is an agent allowed to introduce citizens of the United States at the rate of several hundred per month among the Cherokees, and then to place the results of his own act in support of an invasion of the rights of a people committed to his care and guardianship? I have always borne my testimony in defence of the great majority of white citizens of the Cherokee Nation against the sweeping charges made against their characters, knowing them to be as honest and law-abiding and as regardful of the rights of the Indians as other citizens. But if there be so many desperate refugees from justice as represented, where are they to be found? Who are they? I do not believe they exist to the number stated. If so, why are they allowed to remain? But will the number be diminished when the gates of protection are battered down and the present stream of influx is swollen into an irresistible and overwhelming flood? When the voice of the Indian is silenced in the assertion of his rights, his home invaded, his stock stolen, his manhood overpowered by violence, his schools destroyed, and when the sound of revelry

echoes through the land, and he is driven to the hopelessness of despair like the Modoc, the Nez Perce, and the starved and frozen Cheyenne—whose deeds of rapine and murder I abhor—but for whose women and helpless children I cannot restrain my sympathy?

Rev. Henry Ward Beecher is reported to have declared in Plymouth Church recently, that—

Our only adversaries are the Indians to whom we send the Gospel, and with whom we make treaties, and then in our dealings with them we violate every principle of the Gospel. There never was a more ignominious policy than that pursued by this country towards the Indians. And both parties have manifested equal injustice. The Nation has shown itself unable to take care of the Indians, and they are given over to the bummers of civilization, who provoke quarrels, and then we send out armed bands to destroy them. In the judgment-day not a nation will stand more infamous for atrocious injustice and blood-red, unprovoked cruelty, than this proud liberty-boasting United States of America. The history of our dealings with the Indians ought to crimson the cheeks of every man who has regard for justice and religion.

And you are urged by every plea that cupidity and ingenuity and selfishness and ambition can urge, to swell the volume of this fearful array by trampling upon the rights of the people of the Indian Territory.

I entreat you not to do it. The Cherokee people united with the entire Indian population of the Territory, raise their hands, in view of their past experience, and implore you not to tarnish the honor of this great nation by the violation of faith and the destruction of all they hold dear on earth. If there is ever to be an end to wrong and aggression upon the Indians now is the time to fix it. No more convenient season, no stronger inducements, no greater occasion will ever arise for the accomplishment of that end than now. If you fail, so will fail those who follow. If you strike down existing guarantees, none others can be stronger or more sacred. The demand for the disregard of their rights comes not from the Indians, but from the influences which manifest themselves to every one at every stage of this contest, and which must impress themselves upon your minds as not calculated to preserve and elevate the Indians. The evidence before your committee in regard

to the civilized tribes must satisfy your minds that they are contented and progressive, and united in support of their homes and governments; while the evidence of the Board of Indian Commissioners shows that Indians less advanced are also improving in that Territory, and that the future is not without promise of their conversion to habits of industry and of their eventual civilization.

The crown of Moytoy, the Chief of the Cherokees, which was presented to his Majesty the King of Great Britain, consisted not of glittering diamonds and sparkling rubies, but of a few feathers from the wing of the imperial eagle. His messengers who bore it were dressed in skins and armed with bows and arrows. Their Chief to-day appears before you a Christian gentleman, clad in a garb similar to your own. From then till now, amid all changes of time and seasons, they have existed as the Cherokee Nation—owning their own lands and living under their own laws and customs. Their history is recorded in your treaties, in your laws, and in your judicial rulings. Their language is perpetuated in your everlasting hills and ever flowing streams. Their valor has been illustrated upon numerous battle-fields, from the Great Lakes to the coast of Florida, from the Monongahela to the further sources of the Arkansas. From the conflicts of every great war within your limits they have come forth, diminished it may be in number, but resolute in spirit and unbroken in vitality. From rude savages they have become a civilized people. They have homes, houses, fields, orchards, schools, and churches. They are contented, happy, prosperous, and progressive. They are united as no other people were ever united in opposition to all schemes looking to their disruption and overthrow. They have demonstrated their capability of civilization, and are rapidly solving the problem of the so-called Indian question. Do not destroy them now. And soon the elevated living Cherokee will blot from the page of history the barbarous sentiment that “the only good Indians are dead Indians!”

It having been stated at the meeting of the Committee, the 17th instant, by E. C. Boudinot, that he had affidavits setting forth that witnesses who appeared before the sub-committee at Vinita, in November, had been threatened with violence and their lives endangered because of their testimony and of the political views they expressed, and that some of them had mysteriously disappeared, and also, by the honorable chairman, that he had a half dozen let-

ters or so of similar import, the Cherokee Delegation immediately sent a dispatch to respectable persons at Vinita to be furnished with authenticated statements in regard to such witnesses. These statements have been received by mail, and I incorporate them here as a part of my remarks, assuming responsibility for their correctness. They cover, I believe, the names of nearly every witness who testified, *ex parte* or otherwise, at Vinita, in favor of either, or both, an allotment of lands and a change in the form of government of the Cherokee Nation. Several of them it will be seen are from the witnesses. At Vinita there were not exceeding fifteen mixed Cherokees and four or five whites who favored allotment, but opposed a territorial government, and only about six mixed Cherokees, four whites, and two or three colored citizens who favored both. At Muscogee there were fewer; at Tahlequah, none; while at these and other places, not less than three thousand citizens of all colors protested within a few days earnestly against both. The affidavits furnish conclusive evidence that violence has not been shown to witnesses who testified at Vinita, and that they have received no maltreatment from the thousands of people who do not agree with them in sentiment, on any account. I may add that Vinita was incorporated by the Cherokee National Council as Downingville, and is therefore the same place.

AFFIDAVITS.

CITY OF DOWNINGVILLE, }
Cooweeskoowee District, Cherokee Nation, I. T. }

Personally appeared before me, J. T. Cunningham, Mayor of Downingville, Cherokee Nation, I. T., J. D. Marker, A. P. Goody Koontz, Thomas Howie, J. C. Trott, W. R. Stover, Geo. W. McFarlin, Charles Hunter, Jarrett Cowan, L. S. Arnold, Robert Ironsides, all of whom, after being duly sworn, make the following statement: That we know of none of the following-named persons or any other person living in the Cherokee Nation; nor have we heard of any one being killed, injured in person or property, or driven away, or disappearing from their homes since testifying before the Patterson Committee. And we further state, we are personally acquainted with all the following-named persons, and that they are all now living at or in the vicinity of Vinita or Downingville, Cherokee Nation: J. M. Bell, Robt. Ironsides, Eneas Ridge, G. W. McFarlin, E. H. Jenkins, J. C. Woods, Chas. Hunter, Wm. Stover, Charles Kenney, Jarrett Cowan, Thomas Howie, J. L. McCoy, C. C. Ironsides, Edward E. Miller, Sut Beck, John D. Marker, Allen Lynch, J. C. Trott, G. W. Daugherty, Watie Bell, R. D. Knight, James Whitmon, A. D. Goody Koontz, L. S. Arnold, Joe Henrick.

J. C. MARKER, *Vinita, I. T.*,
 A. P. GOODY KOONTZ, *Vinita, I. T.*
 THOMAS HOWIE,

Excepting E. Miller.

J. C. TROTT,
 W. R. STOVER,
 GEO. W. McFARLIN,

(with the exception of J. L. McCoy, C. C. Ironsides, E. E. Miller.)

Witness: H. EIFFERT. CHARLES ^{his} × HUNTER,

Witness: H. T. LANDRUM. JARRETT ^{his} × COWAN,

L. S. ARNOLD,
 ROBERT IRONSIDES.

R. D. Knight states that he knows of no one being killed or injured on account of the Patterson Committee.

Sworn to and subscribed before me, this, the 18th day of January, 1879.

[L. S.]

J. T. CUNNINGHAM,
Mayor of Downingville, Cherokee Nation, I. T.

CITY OF DOWNINGVILLE, }
Cooweeskoowee District, Cherokee Nation. }

Personally appeared before me, J. T. Cunningham, Mayor of Downingville, C. N., Thomas Crutchfield, who, after being duly sworn, makes the following statement: I am personally acquainted with J. L. McCoy. I am his closest neighbor. I saw him yesterday; he was living and in good health. I have never heard of any one trying to run him away from home, or making any threats to kill him or have him killed, or to injure or destroy any of his property, for testifying before the Patterson Senatorial Committee. Nor do I believe his life and property are in any danger.

TOM CRUTCHFIELD.

Sworn to and subscribed before me this 18th day of January, 1879.

J. T. CUNNINGHAM,
 [L. S.] *Mayor of Downingville, Cherokee Nation, I. T.*

CHEROKEE NATION, }
Cooweeskoowee District. }

I am acquainted personally with Ezekiel Miller, and I am living in the neighborhood of him, and know nothing of his running away from home. Neither have I *heard* of him running away from home on account of having testified before the Senatorial Committee of which Patterson was chairman. Neither do I believe that his life or personal property are in any danger whatever.

H. T. LANDRUM.

DOWNINGVILLE, C. N.,
January 18, 1879.

The above statement sworn to and subscribed before me, on the 18th of January, A. D. 1879.

[L. S.] J. T. CUNNINGHAM,
Mayor, Downingville, C. N.

CHEROKEE NATION, }
City of Downingville. }

I hereby certify that C. C. Ironsides is living in the town of Downingville, or Venita, and transacting business in this place. I further certify that he has not been damaged in his property to the value of one cent. I further certify that I believe him to be in no personal danger on account of any statement made by him before the Patterson Committee, or for his political opinions.

[L. S.] J. T. CUNNINGHAM,
Mayor, Downingville, C. N.